

Wynn & Wynn, P.C.

• ATTORNEYS •

90 New State Highway
Raynham, MA 02767
(508) 823-4567
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March 29, 2005

FILED
CLERKS OFFICE
2005 MAR 31 A 11:57
U.S. DISTRICT COURT
DISTRICT OF MASS.

Elizabeth K. Balaschak
William E. Enright, Jr.
Thomas M. Grimmer
Richard A. Martone
Kevin P. McRoy
Robert F. Mills
Charles D. Mulcahy
John J. O'Day, Jr.
Kevin J. O'Malley
Thomas E. Pontes
Michael J. Princi
Rebecca C. Richardson
Janice E. Robbins
William Rosa*
Louis V. Sorgi, Jr.
Dina M. Swanson
Robert Venturo
John A. Walsh
Paul F. Wynn
Thomas J. Wynn

Clerk
U.S. District Court
District of Massachusetts
U.S. Courthouse
1 Courthouse Way, Suite 2300
Boston, MA 02210

RE: Glenn S. Bates v. Town of Harwich et al
United States District Court, C.A. No. 05-10489-MEL

Dear Sir or Madam:

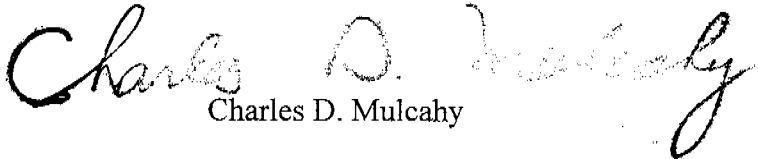
Enclosed for filing in the above-referenced matter, please find certified copies of documents received from Barnstable Superior Court.

Of Counsel
Hon. Robert L. Steadman (Ret.)
Thomas A. Maddigan
Hon. James F. McGuillen, II (Ret.)
Hon. James J. Nixon (Ret.)

Thank you for your attention to this matter.

Very truly yours,

WYNN & WYNN, P.C.


Charles D. Mulcahy

Admitted:
*Massachusetts and Rhode Island

CDM/ktm
Enclosures

cc: Eric J. Crane, Esquire
Andrew P. Shepley, Claim Examiner (GFMS #228757)

Commonwealth of Massachusetts

BARNSTABLE, ss.

FILED
2005 MAR 31 A 11:57

U.S. DISTRICT COURT
DISTRICT OF MASS

SUPERIOR COURT

No. 04-705

I, Nancy N. Weir, Assistant Clerk of the Superior Court within and for said County of Barnstable, having, by law, the custody of the seal and all the records, books, documents and papers of, or appertaining to said Court, hereby certify that the papers hereto annexed are true copies of the papers appertaining to said Court, and on file and of record in the Office of said Court, relating to the case of GLENN BATES vs. HARWICH POLICE DEPARTMENT, TOWN OF HARWICH, case #04-705.

In witness whereof, I have hereunto set my hand and the seal of said Court, this twenty-second day of March in the year of our Lord two thousand five.

Nancy N. Weir
Assistant Clerk

BACV2004-00705
Bates v Harwich Police Department et al

File Date	11/29/2004	Status	Disposed: transfered to other court (dtrans)
Status Date	03/22/2005	Session	A - Civil A- Barnstable Superior Court
Origin	1	Case Type	E03 - Action against Commonwealth/municipl
Lead Case		Track	A

Service	02/27/2005	Answer	04/28/2005	Rule12/19/20	04/28/2005
Rule 15	02/22/2006	Discovery	01/18/2007	Rule 56	03/19/2007
Final PTC	08/19/2007	Disposition	11/29/2007	Jury Trial	Unknown

PARTIES

Plaintiff Glenn S Bates 45 Newton Avenue Hyannis, MA 02601 Active 11/29/2004	Private Counsel 628882 Eric Crane Dean & Associates (Michael J) LLC 255 Main Street Hyannis, MA 02601 Phone: 508-775-2100 Fax: 508-775-7100 Active 11/29/2004 Notify
Defendant Harwich Police Department 183 Sisson Road Served: 02/24/2005 Served (answr pending) 03/01/2005	Private Counsel 359360 Charles D Mulcahy Wynn & Wynn 90 New State Highway Raynham, MA 02767 Phone: 508-823-4567 Fax: 508-822-4097 Active 03/18/2005 Notify
Defendant Town of Harwich 732 Main Street Served: 02/24/2005 Served (answr pending) 03/01/2005	*** See Attorney Information Above ***

ENTRIES

Date	Paper	Text
11/29/2004		Filing fee paid in the amount of \$275 including \$15.00 surcharge and \$20.00 security fee.
11/29/2004	1.0	COMPLAINT & civil action cover sheet
11/29/2004		Origin 1, Type E03, Track A, copy faxed
03/01/2005	2.0	SERVICE RETURNED: Defendant Harwich Police Department accepted by Lt. Barry Mitchell, agent
03/01/2005	3.0	SERVICE RETURNED: Defendant Town of Harwich, accepted by Anita N. Doucette, Town Clerk, agent
03/18/2005	4.0	NOTICE: defendants' of removal to United States District Court
03/22/2005		Case REMOVED this date to US District Court of Massachusetts

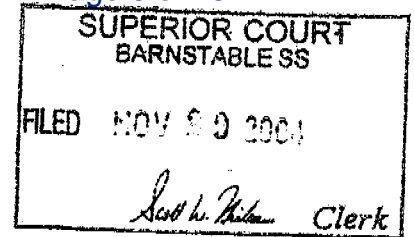
EVENTS

BACV2004-00705
Bates v Harwich Police Department et al

Date	Session	Event	Result
03/18/2005	Civil A- Barnstable Superior Court	Status: administrative left mess. - need \$18.50 to proceed	Event held as scheduled
04/04/2005	Civil A- Barnstable Superior Court	Status: Clerk Follow UP check for money for removal , if received close out case if not call atty	Event held as scheduled

CIVIL ACTION COVER SHEET		04-705	Trial Court of Massachusetts Superior Court Department County: _____
PLAINTIFF(S) Glenn Bates		DEFENDANT(S) Town of Harwich; Harwich Police Department	
ATTORNEY, FIRM NAME, ADDRESS AND TELEPHONE (508) 775-2100 Eric J. Crane Michael J. Dean & Associates, LLC 255 Main St. Hyannis, MA 02601 <small>Board of Bar Overseers number 628882</small>		ATTORNEY (if known) <div style="border: 1px solid black; padding: 5px; text-align: center; margin-top: 10px;">SUPERIOR COURT BARNSTABLE SS FILED NOV 29 2004 <i>Scott H. Kahan</i> Clerk</div>	
Origin code and track designation			
Place an x in one box only:			
<input checked="" type="checkbox"/> 1. F01 Original Complaint		<input type="checkbox"/> 4. F04 District Court Appeal c.231, s. 97 & 104 (After trial) (X)	
<input type="checkbox"/> 2. F02 Removal to Sup.Ct. C.231,s.104 (Before trial) (F)		<input type="checkbox"/> 5. F05 Reactivated after rescript; relief from judgment/Order (Mass.R.Civ.P. 60) (X)	
<input type="checkbox"/> 3. F03 Retransfer to Sup.Ct. C.231,s.102C (X)		<input type="checkbox"/> 6. E10 Summary Process Appeal (X)	
TYPE OF ACTION AND TRACK DESIGNATION (See reverse side)			
CODE NO.	TYPE OF ACTION (specify)	TRACK (A)	IS THIS A JURY CASE?
E03	Action against Commonwealth	(X) Yes	() No
The following is a full, itemized and detailed statement of the facts on which plaintiff relies to determine oney damages. For this form, disregard double or treble damage claims; indicate single damages only.			
TORT CLAIMS (Attach additional sheets as necessary)			
A. Documented medical expenses to date:			
1. Total hospital expenses		\$+/- 100000.00	
2. Total Doctor expenses		\$+/- 50000.00	
3. Total chiropractic expenses		\$	
4. Total physical therapy expenses		\$+/- 10000.00	
5. Total other expenses (describe)		\$	
		Subtotal \$+/- 160000.00	
B. Documented lost wages and compensation to date			
C. Documented property damages to date			
D. Reasonably anticipated future medical and hospital expenses			
E. Reasonably anticipated lost wages			
F. Other documented items of damages (describe)			
\$			
Brief description of plaintiff's injury, including nature and extent of injury (describe)			
Plaintiff suffered two gun shot wounds to back resulting in, among other things, a ruptured spleen, shattered kidney and damage to canal and peripheral nerves of the spine.			
TOTAL \$ 160000.00			
CONTRACT CLAIMS (Attach additional sheets as necessary)			
Provide a detailed description of claim(s):			
TOTAL \$.			
PLEASE IDENTIFY, BY CASE NUMBER, NAME AND COUNTY, ANY RELATED ACTION PENDING IN THE SUPERIOR COURT DEPARTMENT			
"I hereby certify that I have complied with the requirements of Rule 5 of the Supreme Judicial Court Uniform Rules on Dispute Resolution (SJC Rule 1:18) requiring that I provide my clients with information about court-connected dispute resolution services and discuss with them the advantages and disadvantages of the various methods."			
Signature of Attorney of Record: <i>[Signature]</i>		DATE: 11/29/04	

**COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT
SUPERIOR COURT DEPARTMENT**



BARNSTABLE, ss.

CIVIL ACTION NO.: 04- 705

GLENN S. BATES,

Plaintiff

v.

**TOWN OF HARWICH AND
HARWICH POLICE DEPARTMENT,
Defendants**

**VERIFIED
COMPLAINT**

49478000011 29 04 CIVIL ENTR 21.00
49478000011 29 04 SURCHARGE 15.00
49478000011 29 04 FEE 10.00

STATEMENT OF THE CASE

The Plaintiff, in 6 Counts, seeks relief against the Defendants to receive payment for his personal injuries that he suffered when he was shot and beaten by two officers of the Harwich Police Department in the Town of Harwich. On or about November 30, 2001 at approximately 10:00 am officers of the Harwich Police Department, entered Plaintiff's home located at 621 Main Street, Apartment B in the Town of Harwich, Massachusetts without knocking on the door, without ringing the doorbell and without announcing their presence or the purpose of their presence. Shortly after 10:00 am, Christopher Kender of the Harwich Police Department discharged his firearm into the person of the Plaintiff and used excessive force to secure Mr. Bates. Barry Mitchell also of the Harwich Police Department used excessive force in securing the Plaintiff.

PARTIES

1. The Plaintiff, Glenn S. Bates, is an individual with a usual residential address of 45 Newton Avenue, Hyannis, Massachusetts.
2. The Defendant Harwich Police Department is an agent of the municipality known as the Town of Harwich and has an address of 183 Sisson Road, Harwich Massachusetts.
3. The Defendant Town of Harwich is a municipality in Massachusetts with an address of 732 Main Street, Harwich, Massachusetts.

FACTS

4. On or about November 30, 2001 at approximately 10:00 am officers of the Harwich Police Department, entered Mr. Bates home located at 621 Main Street, Apartment B in the Town of Harwich, Massachusetts, without knocking.

5. On or about November 30, 2001 at approximately 10:00 am officers of the Harwich Police Department, entered Mr. Bates home located at 621 Main Street, Apartment B in the Town of Harwich, Massachusetts, without ringing the doorbell.
6. On or about November 30, 2001 at approximately 10:00 am officers of the Harwich Police Department, entered Mr. Bates home located at 621 Main Street, Apartment B in the Town of Harwich, Massachusetts without announcing their presence or the purpose of their presence.
7. On or about November 30, 2001 shortly after approximately 10:00 am officer Christopher Kender of the Harwich Police Department discharged his firearm into the person of Mr. Bates.
8. On or about November 30, 2001 at approximately 10:00 officer Christopher Kender of the Harwich Police Department used excessive force to secure Mr. Bates.
9. On or about November 30, 2001 at approximately 10:00 am Barry Mitchell used excessive force in securing Mr. Bates.

COUNT I – NEGLIGENCE
TOWN OF HARWICH

10. The Plaintiff repeats and re-alleges the allegations contained in paragraphs 1-9 of this Complaint and make them part hereof.
11. The Town of Harwich owed the Plaintiff a duty of care.
12. The Town of Harwich breached that duty of care.
13. The Plaintiff suffered injuries as a result of the breach of care.
14. The Plaintiff's injuries were the proximate cause of the Defendant's breach of duty of care.

COUNT II – NEGLIGENCE
HARWICH POLICE DEPARTMENT

15. The Plaintiff repeats and re-alleges the allegations contained in paragraphs 1-14 of this Complaint and make them part hereof.
16. The Harwich Police Department owed the Plaintiff a duty of care.
17. The Harwich Police Department breached that duty of care.
18. The Plaintiff suffered injuries as a result of the breach of duty of care.

19. The Plaintiff's injuries were the proximate cause of the Defendant's breach of duty of care.

COUNT III – ASSAULT AND BATTERY
TOWN OF HARWICH

20. The Plaintiff repeats and re-alleges the allegations contained in paragraphs 1-19 of this Complaint and make them part hereof.

21. Officers Christopher Kender and Barry Mitchell as agents of the Town of Harwich owed the Plaintiff a duty of care.

24. Officer Christopher Kender and Barry Mitchell as agents of the Town of Harwich breached that duty of care.

25. The Plaintiff suffered injuries as a result of the breach of duty of care.

26. The Plaintiff's injuries were the proximate cause of the Defendant's breach of duty of care.

COUNT IV – ASSAULT AND BATTERY
HARWICH POLICE DEPARTMENT

27. The Plaintiff repeats and re-alleges the allegations contained in paragraphs 1-25 of this Complaint and make them part hereof.

28. Officers Christopher Kender and Barry Mitchell as members of the Harwich Police Department for the Town of Harwich owed the Plaintiff a duty of care.

29. Officer Christopher Kender and Barry Mitchell as members of the Harwich Police Department for the Town of Harwich breached that duty of care.

30. The Plaintiff suffered injuries as a result of the breach of duty of care.

31. The Plaintiff's injuries were the proximate cause of the Defendant's breach of duty of care.

COUNT V – VIOLATION OF CIVIL RIGHTS 42 U.S.C. sec. 1983
HARWICH POLICE DEPARTMENT

32. The Plaintiff repeats and re-alleges the allegations contained in paragraphs 1-31 of this Complaint and make them part hereof.

33. The officers of the Harwich Police Department acted under color of state law when apprehending the Plaintiff.

34. The Harwich Police Department deprived the Plaintiff of rights guaranteed, secured and protected by the Constitution and the laws of the United States.

35. The conduct of the Harwich Police Department was the cause of the Plaintiff's deprivation of rights.

COUNT VI – VIOLATION OF CIVIL RIGHTS 42 U.S.C. sec. 1983
TOWN OF HARWICH

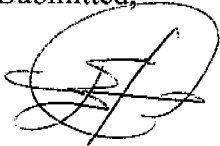
36. The Plaintiff repeats and re-alleges the allegations contained in paragraphs 1-35 of this Complaint and make them part hereof.

37. Officers Christopher Kender and Barry Mitchell as members of the Harwich Police Department for the Town of Harwich acted under color of state law when apprehending the Plaintiff.

38. Christopher Kender and Barry Mitchell as members of the Harwich Police Department for the Town of Harwich deprived the Plaintiff of rights guaranteed, secured and protected by the Constitution and the laws of the United States.

39. The conduct of officers Christopher Kender and Barry Mitchell as members of the Harwich Police Department for the Town of Harwich was the cause of the Plaintiff's deprivation of rights.

Respectfully Submitted,



Counsel For Plaintiff:

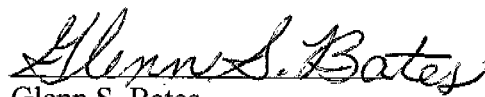
Eric J. Crane
Michael J. Dean
Michael J. Dean & Associates, LLC
255 Main Street
Hyannis, Massachusetts 02601
(508) 775-2100
BBO# 628882

VERIFICATION

I, the undersigned, being duly sworn, state that I am the Plaintiff in the above-entitled matter; that I have read the foregoing Complaint and know the contents thereof, and that the same is true based upon personal knowledge or upon information and belief.

Dated:

11/29/04


Glenn S. Bates

Commonwealth of Massachusetts

BARNSTABLE, ss.

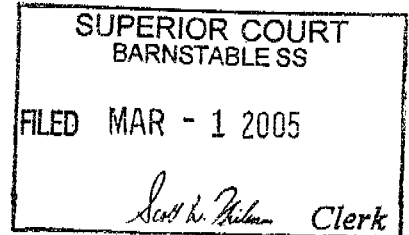
SUPERIOR COURT

No. 04-705

Glenn S. Bates

VS.

Town of Harwich
Harwich Police Department



SUMMONS

To the above-named defendant :

You are hereby summoned and required to serve upon ERIC J. CRANE

..... plaintiff's attorney, whose address is
255 Main St. Hyannis, MA 02601, an answer to the
complaint which is herewith served upon you, within 20 days after service of this summons upon you,
exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the
relief demanded in the complaint. You are also required to file your answer to the complaint in the office
of the Clerk of this court at Barnstable either before service upon plaintiff's attorney or within a reasonable
time thereafter.

Unless otherwise provided by Rule 13(a), your answer must state as a counterclaim any claim which
you may have against the plaintiff which arises out of the transaction or occurrence that is the subject
matter of the plaintiff's claim or you will thereafter be barred from making such claim in any other action.

Witness, SUZANNE V. DEL VECCHIO Esquire, at Barnstable, the 22nd
day of February, in the year of our Lord two thousand and 2005

Scott W. Nickerson Clerk

NOTE: When more than one defendant is involved, the names of all defendants shall appear in the caption. If a
separate summons is issued for each defendant, each should be addressed to the particular defendant.

NOTICE TO DEFENDANT

You need not appear personally in court to answer the complaint but if you claim to have a defense,
either you or your attorney must serve a copy of your written answer within 20 days as specified
herein and also file the original in the Clerk's office.

Commonwealth of Massachusetts

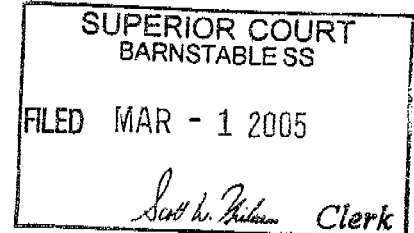
BARNSTABLE, ss.

SUPERIOR COURT

No. 04-705

⑦

Glenn S. Bates



VS.

Town of Harwich
Harwich Police Department

SUMMONS

To the above-named defendant :

You are hereby summoned and required to serve upon ERIC J. CRANE

..... plaintiff's attorney, whose address is
255 Main St. Hyannis, MA 02601, an answer to the
complaint which is herewith served upon you, within 20 days after service of this summons upon you,
exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the
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Scott W. Nickerson Clerk

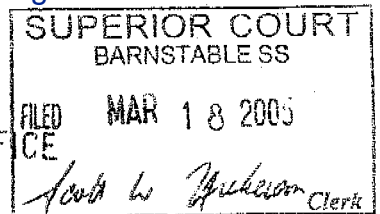
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either you or your attorney must serve a copy of your written answer within 20 days as specified
herein and also file the original in the Clerk's office.

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

FILED
CLERKS OFFICE
2005 MAR 14 P 3:11
C.A. No. _____



U.S. DISTRICT COURT
DISTRICT OF MASS.

(4)

GLENN S. BATES,
Plaintiff

v.

TOWN OF HARWICH and
HARWICH POLICE
DEPARTMENT
Defendants

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*
*
*
*
*
*
*
*

NOTICE OF REMOVAL

05 10489 MEL

TO THE JUDGES OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS:

Now come the defendants pursuant to the provision of 28 U.S.C. §§ 1441 and 1446, and hereby file notice of the removal of this action from the Superior Court of the Commonwealth of Massachusetts, County of Barnstable, where it is currently pending, based on the following grounds:

1. This is an action in which the plaintiff alleges violations of his civil rights under the Fourteenth Amendments to the U.S. Constitution. The plaintiff seeks relief presumably pursuant to 42 U.S.C. §1983. See Complaint, ¶¶ 36-39, affixed hereto and incorporated by reference. The plaintiff also asserts state claims alleging negligence and assault and battery. See Complaint, ¶¶ 10-31, affixed hereto and incorporated by reference.

2. This Court has jurisdiction over the plaintiff's constitutional claims pursuant to 28 U.S.C. §1441.

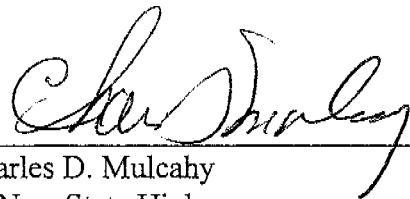
3. This removal is timely, as the defendants were served of this action on February 24, 2005.

4. All defendants have consented to the removal of the matter to the United States District Court for the District of Massachusetts.

SIGNED PURSUANT TO RULE 11 OF THE FEDERAL RULES OF CIVIL PROCEDURE.

DEFENDANTS
TOWN OF HARWICH AND HARWICH
POLICE DEPARTMENT
By their Attorneys,

WYNN & WYNN, P.C.

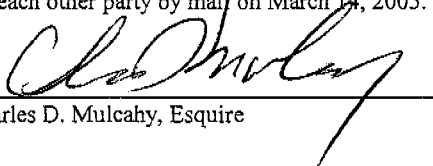


Charles D. Mulcahy
90 New State Highway
Raynham, MA 02767
(508) 823-4567
BBO #359360

March 14, 2005

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served upon the attorney of record for each other party by mail on March 14, 2005.



Charles D. Mulcahy, Esquire

CIVIL COVER SHEET

JS 44 (Rev. 11/04)

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Glenn S. Bates

(b) County of Residence of First Listed Plaintiff Barnstable
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Eric J. Crane, Esquire, 255 Main Street, Hyannis, MA 02601 (508) 775-2100

DEFENDANTS

Town of Harwich and Harwich Police Department
MAR 14 2005 3:17

County of Residence of First Listed Defendant Barnstable
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

Charles D. Mulcahy, Esquire, Wynn & Wynn, P.C., 90 New State Highway, Raynham, MA 02767 (508) 823-4567

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 250 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input checked="" type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

V. ORIGIN

(Place an "X" in One Box Only)

- ☐ 1 Original Proceeding
- ☒ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause: Plaintiff claims defendants violated his right under the Fourteenth Amendment to the U.S. Constitution and seeks damages pursuant to 42 USC Section 1983.

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE Barnstable Superior CourtDOCKET NUMBER BACV2004-00705

DATE

3-10-05

SIGNATURE OF ATTORNEY OF RECORD

Charles D. Mulcahy

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTSFILED
IN CLERKS OFFICE

1. Title of case (name of first party on each side only)
- Glenn S. Bates v. Town of Harwich et al

2005 MAR 14 P 3:17

2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).

U.S. DISTRICT COURT
DISTRICT OF MASS.

- ☐ I. 160, 410, 470, R.23, REGARDLESS OF NATURE OF SUIT.
- ☒ II. 195, 196, 368, 400, 440, 441-446, 540, 550, 555, 625, 710, 720, 730, *Also complete AO 120 or AO 121 for patent, trademark or copyright cases
740, 790, 791, 820*, 830*, 840*, 850, 890, 892-894, 895, 950.
- ☐ III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371, 380, 385, 450, 891.
- ☐ IV. 220, 422, 423, 430, 460, 480, 490, 610, 620, 630, 640, 650, 660, 690, 810, 861-865, 870, 871, 875, 900.
- ☐ V. 150, 152, 153.

05 10489 MEL

3. Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.

Bates v. Town of Harwich et al, Barnstable Superior Court, CA No. BACV2004-00705

4. Has a prior action between the same parties and based on the same claim ever been filed in this court?

YES ☐ NO ☒

5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)

YES ☐ NO ☒

If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?

YES ☐ NO ☒

6. Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?

YES ☐ NO ☒

7. Do
- all
- of the parties in this action, excluding governmental agencies of the united states and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)).

YES ☒ NO ☐

- A. If yes, in which division do
- all
- of the non-governmental parties reside?

Eastern Division ☒ Central Division ☐ Western Division ☐

- B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?

Eastern Division ☐ Central Division ☐ Western Division ☐

8. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions)

YES ☐ NO ☒

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME Charles D. Mulcahy, EsquireADDRESS Wynn & Wynn, P.C., 90 New State Highway, Raynham, MA 02767TELEPHONE NO. (508) 823-4567

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT
SUPERIOR COURT DEPARTMENT

BARNSTABLE, SS.

CIVIL ACTION NO. BACV2004-00705

GLENN S. BATES,
Plaintiff

v.

TOWN OF HARWICH and
HARWICH POLICE
DEPARTMENT
Defendant

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WRITTEN NOTICE OF REMOVAL TO FEDERAL COURT
PURSUANT TO 28 U.S.C. §1445(D)

TO: Plaintiff Glenn S. Bates
Through his attorney,
Eric J. Crane, Esquire
Michael J. Dean & Associates, LLC
255 Main Street
Hyannis, MA 02601


AND: Clerk, Civil
Barnstable Superior Court
3195 Main Street
P. O. Box 425
Barnstable, MA 02630

Please take notice that a Notice of Removal of the above-captioned action from the Superior Court of the Commonwealth of Massachusetts, Barnstable County, to the United States District Court for the District of Massachusetts (a copy of which Notice of Removal is annexed hereto) was duly filed in the United States District Court for the District of Massachusetts.

Please take further notice that this Notice and a copy of the Notice of Removal, certified by the United States District Court for the District of Massachusetts, has been duly filed with the Clerk of the Superior Court of the Commonwealth of Massachusetts, Barnstable County, which filing removes this action and, in accordance with 28 U.S.C. §1446(d), the Superior Court shall proceed no further herein unless and until this case is remanded by the United States District Court.

DEFENDANTS
TOWN OF HARWICH AND HARWICH
POLICE DEPARTMENT
By their Attorneys,

WYNN & WYNN, P.C.



Charles D. Mulcahy
90 New State Highway
Raynham, MA 02767
(508) 823-4567
BBO #359360

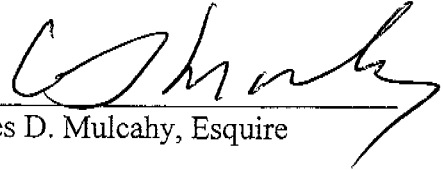
March 16, 2005

CERTIFICATE OF SERVICE

I, Charles D. Mulcahy, hereby certify that on the below date, I served a copy of the foregoing Written Notice of Removal, by first class mail, postage prepaid, to the following counsel of record:

Eric J. Crane, Esquire
Michael J. Dean & Associates, LLC
255 Main Street
Hyannis, MA 02601

Dated: March 16, 2005



Charles D. Mulcahy, Esquire